

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
)
 vs.) ORDER
)
)
FRANCISCO MURILLO-LOPEZ,)
)
)
 Defendant.)

This matter is before the court on the motion for continuance by defendant Francisco Murillo-Lopez (Murillo-Lopez) (Filing No. 36). Murillo-Lopez seeks a five-week continuance and requests the pretrial motion deadline be so extended. The pretrial motion deadline expired on November 13, 2012 (Filing No. 23). There was no request for an extension and this matter was set for trial on December 10, 2012 (Filing No. 35). The court finds no justification for the extension of the pretrial motion deadline. However, the court will grant Murillo-Lopez a continuance of the trial. Murillo-Lopez has filed an affidavit wherein he agrees to a continuance and acknowledges the additional time will be excluded from Speedy Trial Act calculations.

IT IS ORDERED:

1. Murillo-Lopez's motion for a continuance (Filing No. 36) is denied as to an extension of the pretrial motion deadline but granted as to a continuance of the trial.
2. Trial of this matter is re-scheduled for **January 22, 2013**, before Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional time arising as a result of the granting of the motion, i.e., the time between **December 7, 2012, and January 22, 2013**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendant's counsel requires additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(A) & (B).

DATED this 7th day of December, 2012.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge